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Flexicurity in Belgium: On the brink of a breakthrough?

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Written by prof. dr. Marc De Vos (UGent & Itinera Institute)
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Contact: Emilio Castrillejo

E-mail: Emilio.Castrillejo@ec.europa.eu

European Commission

B-1049 Brussels

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1 National approach to flexicurity

This paper has been prepared for a Peer Review within the framework of the Mutual Learning Programme. It provides information on Belgium's approach to flexicurity in comparison with the Host Country for the Peer Review. For information on the policy example, please refer to the Host Country Discussion Paper.

From the perspective of the so-called "Wilthagen Matrix", Belgium's flexicurity profile is traditionally more oriented towards job security and income security than it is towards employment security and combination security. As such, Belgium is part of a continental cluster of countries that have historically emphasized job security and relatively low external flexibility in their labour market organisation¹. The formal adoption, since 2006, of flexicurity as a pan-European policy aim has not (yet) fundamentally altered this reality.

In the run-up to the global financial crisis, flexicurity failed to unite Belgium's social partners and political parties behind an ambitious reform agenda². The subsequent crisis years have understandably focused energies on crisis measures while not favouring fundamental policy reflections. By and large, Belgium's labour unions still remain largely to be convinced of flexicurity's win-win potential, essentially seeing increased flexibility as its only security. Belgian employer organisations, on the other hand, remain suspicious of increased costs associated with flexicurity at the HR level, particularly against a back-drop of wage cost handicap and loss of market share in exports. Finally, Belgium's politicians have been stuck in a cycle of institutional, financial and economic crises since 2006, with predictable mixed results.

Belgium's labour market has shown some of the tell-tale signs of serious economic stress since 2008. Temporary workers have borne the brunt of initial job cuts, working time reductions have reduced job losses among insiders, job creation has fallen, and unemployment levels have risen³. However, a combination of macro-economic luck and crisis policy has lowered the immediate labour market costs of the economic crisis in comparison with many other Eurozone countries.

From a broad macro-economic perspective, Belgium did not face a deflating real estate bubble and benefitted from its close connection to the resilient German economy, while its domestic governments did not embrace full "austerity" in the midst of a cyclical downturn⁴. At the same time, the federal government extended temporary unemployment benefits to permanent workers of crisis-stricken companies, again smoothing the crisis impact. Helped further by replacement opportunities through retiring baby-boomers and by lavish job subsidies that account for 100% of all net job-growth since 2007, Belgium all-in-all was able to reduce the short-term labour market damage of the crisis significantly⁵. While it has mostly done so by avoiding transitions and through direct job creation schemes, potentially against the flow of flexicurity, it has nonetheless also adopted a number of piecemeal reforms that clearly do reflect flexicurity orientations.

¹ See, recently, T. Wilthagen, *Flexicurity in bedrijf: het beste van twee werelden?*, Itinera Institute, Analyse 2014/6, available at www.itinerainstitute.org.

² See M. De Vos and J. Konings, *Van baanzekerheid naar werkzekerheid op de Belgische arbeidsmarkt*, Intersentia, 2007; -, *D'une sécurité d'emploi vers une sécurité du travail sur le marché du travail belge*, Anthémis, 2007. Compare, COM(2013) 351 final, 29 May 2013.

³ See the annual reports of Belgium's High Council for Employment, available at www.employment.belgium.be

⁴ For an overview of the data, see I. Van de Cloot, *Budgettaire uitdagingen voor België*, Itinera Institute, Analyse 2013/14, available at www.itinerainstitute.org

⁵ See Hoge Raad voor de Werkgelegenheid (High Council for Employment), *Jaarverslag 2014* (annual report 2014), available at www.employment.belgium.be

2 Assessment of the policy measures

2.1 Brief overview of Belgium's post-crisis policy flexicurity measures

While subsidized job creation stands out as the hallmark of Belgium's labour market reality since the advent of the crisis, Belgium's labour market policy has evolved in directions more familiar to a flexicurity agenda as well. In what follows, we briefly summarize developments mirroring the structure of the Danish report.

Working time flexibility in Belgium has been increased by raising the maximum amount of overtime within a reference period of one calendar year: from 65 to 91 hours by law, or to 130 hours if a collective bargaining agreement can be reached.⁶ In the same vein of favouring **flexible work**, the possibility for companies to use temporary agency workers has been extended beyond peaks and illnesses to vacancies. Essentially formalizing a widespread pre-existing practice, the new rule allows employers to use temporary agency work to test potentials for job openings, while also restricting the possibility to use day contracts.⁷

Systemic **wage moderation** has been an official Belgian policy since 1996, with a bi-annual cycle of maximum wage margins that reflect expected wage cost increases in Belgium's neighbouring economies. Aiming to boost competitiveness and improve job creation, the federal government has frozen wage-growth altogether for 2013-14 in the private sector.⁸ This wage freeze does not cover Belgium's well-known automatic wage indexation tied to consumer price inflation, however.

Whereas the bulk of Belgium's **ALMP** has remained focused on subsidies for job creation, activating measures for improving employability were also on the menu of Belgian crisis responses. Here, the combination of federal and regional policy – the result of Belgium's decades-long devolution process – comes into play. A new nation-wide programme for paid internships for young job seekers (younger than 25) with no high-school degree was launched with an ambitious target of helping 10,000 people into their first jobs. So far, it has not lived up to expectations, reportedly reaching only about one tenth of the target.

Symbolically, the biggest change in Belgium's labour market policy of the period was the realization of a single **dismissal law status** for blue collar and white collar workers. Under the pressure of a Constitutional Court ruling that had held the difference in dismissal status to be unconstitutional, the federal government succeeded where decades of social partner bargaining had previously failed: a new unified dismissal law. The new law not only unifies notice periods and in-lieu payments: it also attempts to modernize dismissal by including an active component. Sectoral collective bargaining agreements are expected, by 2019, to provide that dismissed workers who are entitled to a notice period or in-lieu payment of at least 30 weeks, will receive a third of their dismissal package through measures that increase the employability of the dismissed worker. It remains to be seen whether the bargaining will follow if workers favour hard cash over services: failure will only result in the employer having to top up notice pay with a contribution of 4%.⁹

The modernized dismissal law has also extended and generalized the **outplacement** obligation that was already part of Belgium's legal framework for dismissal. Before 2014, outplacement services were a right only for dismissed workers older than 45. This right is now extended. Anyone with a notice period or in-lieu payment of at least 30 weeks, irrespective of age, is entitled to 60 hours of outplacement services paid for by the

⁶ Act of 17 August 2013, OJ 29 August 2013.

⁷ CBA n° 108, 16 July 2013.

⁸ Decree of 28 April 2013, OJ 2 May 2013.

⁹ Articles 92 and 93 of the Act of 26 December 2013, OJ 26 December 2013.

employer. As of 2016, employees will be obliged to participate in the outplacement, turning a right into a duty.

As in Denmark, Belgium has tinkered with its **unemployment insurance** with an aim to increase labour supply and willingness to work. Belgium famously provides unemployment benefits of unlimited duration, making the activation of the unemployed a pressing need from a perspective of labour market participation. For a number of years, Belgium's official employment agencies – first in Flanders, then also in Wallonia and Brussels – have increasingly embraced follow-up policies towards the unemployed, complemented with a more systematic supervision and sanctioning at the (federal) level of benefit payment.¹⁰ The crisis period has seen the continuation of this process.

On the one hand, personal follow-up has been extended to cover the unemployed until age 58 (Flanders). On the other hand, the federal employment agency in charge of verifying benefit eligibility, has extended its process of screening labour market availability to include the unemployed up to age 54. This screening process is based on initial interviews, followed by personal agreements with the unemployed who show insufficient job-finding efforts. Interviews only take place after 15 or 21 months of unemployment, depending on whether the unemployed is younger or older than 25 years.

Since 2012, two target groups of unemployed have moreover seen a change in their benefit system, again with an activation purpose. For the long-term unemployed, a new system of accelerated gradual benefit reduction has been designed. After one year of continuous unemployment, unemployment benefits are gradually reduced, the tempo depending on the years of previous employment. After a period of no more than five years, all the unemployed fall back on a fixed-sum benefit. The reform was adopted to encourage re-employment but is highly contested by the labour unions. Its statistical impact is as yet unclear. Finally, for first entrants on the labour market the unemployment insurance has been adjusted to avoid immediate entitlement to benefits. They now need to wait an entrance period of 310 days, after which time they are entitled to insertion benefits for no longer than 36 months.

Overall, these changes reflect a growing concern for extending careers and boosting labour market participation, against the backdrop of demographic ageing and rising pension costs. Other reforms have gone in the same direction. Early **retirement schemes** have, once again, been restricted and made more onerous, but they have nonetheless remained standard practice in the big company restructurings of the crisis period.¹¹ A complementary rule requiring employers to follow the **age pyramid** of their companies when selecting personnel for collective redundancy was adopted in 2012 but its implementation has been stalled so far.¹²

An increased emphasis on career development has also led to the adoption of a **career voucher system** in Flanders, providing people who have at least one year of professional experience with a counselling package of four hours at an authorized career centre.¹³

2.2 Assessment from the perspective of Danish post-crisis evolutions

Contrary to Denmark, Belgium's automatic stabilizer is not a labour market organization that actively supports transitions, but rather the income security of the welfare state. Much of Belgium's immediate crisis response was directed to providing income security, especially through generous temporary unemployment and subsidized job creation schemes, the short-term impact of which was to avoid layoffs and unemployment

¹⁰ See also OECD, *Enhancing the inclusiveness of the labor market in Belgium*, 2013.

¹¹ So-called "bridge pensions" have been re-baptised "unemployment with a surplus", reflecting their nature but intended to emphasize the need for continued labour market availability.

¹² Act of 29 March 2012, OJ 30 March 2012 and CBA n° 104 of 27 June 2012.

¹³ Flemish Government Decision of 17 May 2013, OJ 11 July 2013.

respectively. The long-term impact, both as regards economic growth potential and insider/outsider entrenchment on the labour market, remains unclear.

Work and wage flexibility reforms during the crisis have apparently been more pronounced in Belgium than in Denmark. This would reflect a more compelling need: Belgium's economy has a structural wage cost handicap and its labour laws have, contrary to Denmark's, traditionally disfavoured flexible work arrangements. The crisis has served as an accelerator to address some of these concerns, albeit on an *ad hoc* basis.

Belgium's open-ended unemployment insurance is an outlier, and its institutional context of overlapping regional and federal competences has not made an effective activation approach easy. Notwithstanding these singularities, Danish and Belgian unemployment reforms during the crisis both bear the hallmarks of budgetary constraints, reflected in a shortening and/or tightening of unemployment benefits.

As regards the bread-and-butter ALMP, Denmark remains a cycle ahead of Belgium. Belgium's "active" labour market policy is in fact a great deal near-passive job subsidies for employers, instead of services and rehabilitation for job seekers. Belgium has not yet reached the stage of openly assessing cost-benefit and effectiveness of ALMP, although anecdotal evidence and reporting has surfaced.

3 Assessment of the success factors and transferability

Contrary to Denmark, flexicurity has not yet entered the DNA of the Belgian labour market organization and its stakeholders. However, one cannot survey the crisis years without noticing how several of the piecemeal Belgian reforms in some way do reflect strands of the flexicurity matrix. This may in part attest to the flexibility of the flexicurity concept itself, but it also suggests that the intellectual framework of flexicurity has indeed managed to survive and inspire during what has been the most difficult economic period in more than a generation.

However, it is fair to say that Belgium's crisis measures, irrespective of their intrinsic compatibility or incompatibility with flexicurity principles, are more patchwork than strategy. They are more reactive in the face of pressure than proactive as a consequence of vision. Indeed, the crisis has not enabled the decision makers and the stakeholders of the Belgian labour market to coalesce around a shared ambition for improvement and reform. Quite the contrary, social partners are profoundly divided and many of the reforms described above were and remain politically highly contested as well. This appears to be not altogether different from the Danish recent experience.

While several of the reform measures outlined above can be meaningful from a flexicurity perspective, Belgium is still a long way off from achieving a comprehensive reform package that genuinely addresses the structural shortcomings of its labour market performance. Indeed, it may well be that the early focus on reinforcing the security of existing jobs while heavily subsidizing other jobs in preferred sectors will further entrench the already deep segmentation that characterizes the Belgian labour market.

Belgium's labour market remains fundamentally characterized by high EPL and low external numerical flexibility: exactly the opposite of the Danish archetype. The area where Belgium can learn the most and the quickest from Denmark, therefore, lies elsewhere: in the combination of income security with active labour market policy. Like Denmark, Belgium spends a great deal on unemployment insurance and ALMP, but it spends it very differently.

The latest phase of Belgium's state reform has devolved almost the entire competence for ALMP to its three regions. The competences for rehabilitation, activation, and sanctioning of the unemployed, will now be together in one single hand. In principle, this should allow for a tailored and intelligent approach that maximizes employability. Moreover, a substantial part of the job creation schemes has also been regionalized. Both the new Flemish and Walloon regional governments have committed themselves to streamlining and concentrating existing funds. In view of these institutional changes and political intentions, flexicurity's moment may actually be about to arrive in Belgium after all.

4 Questions

From a Belgian perspective, flexicurity and the Danish 'golden triangle' are, in some ways, what Western democracy is to authoritarian developing countries: relatively easy to copy but hard to transplant. While Belgium has taken some steps along flexicurity pathways, it lacks the foundation upon which a more integrated flexicurity approach can be built.

One of the most intriguing questions is therefore of labour market terraforming: how has Denmark succeeded in sufficiently reuniting labour market forces around a comprehensive flexicurity approach with mutually reinforcing components, where all stakeholders are expected to take part of the responsibility? Without this common strategy, shared burden and shared return, the Belgian experience is that flexicurity means little more than just in time and just enough reform under pressure.

Of particular relevance for Belgium is a shared commitment, ambition and responsibility in lifelong learning. Lifelong learning is perceived as one of the cornerstones of a successful flexicurity agenda, but Belgium has so far failed to convince its stakeholders to join forces in this regard. What has triggered the Danish success in this area, and what are the components of its durability? To what extent is Danish flexicurity the product of a common societal culture that is reflected in labour market institutions, rather than the reverse?

5 Annex 1: Summary table

National approach to flexicurity

- Belgium's flexicurity profile is traditionally more oriented towards job security and income security than it is towards employment security and combination security.
- The crisis years have focused energies on crisis measures while not favouring fundamental policy reflections.
- Belgium was able to reduce the short-term labour market damage of the crisis significantly but it has mostly done so by avoiding transitions and through direct job creation schemes.

Assessment of the policy measure

- Working time and work flexibility have increased since the crisis, while wage moderation has become more imposed.
- A new single dismissal law status for blue collar and white collar workers includes an activation component, but its implementation remains uncertain.
- The right to outplacement in case of dismissal has been extended and will become a duty for the worker too.
- Increased activation, also among older workers, and increased gradual benefit reduction are part of a reform of unemployment insurance.

Assessment of success factors and transferability

- Flexicurity has not yet entered the DNA of the Belgian labour market organization and its stakeholders.
- The crisis has not enabled decision makers and stakeholders of the Belgian labour market to coalesce around a shared ambition for improvement and reform.
- Like Denmark, Belgium spends a great deal on unemployment insurance and ALMP, but it spends it very differently.
- In view of institutional changes and the political intentions of the new governments, flexicurity's moment may actually be about to arrive in Belgium.

Questions

- How has Denmark succeeded in sufficiently reuniting labour market forces around a comprehensive flexicurity approach with mutually reinforcing components, where all stakeholders are expected to take part of the responsibility?
- What has triggered the Danish success in the area of life-long learning, and what are the components of its durability during the crisis?

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